

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF ALOHA)
LUMBER CORP., SUBSIDIARY OF)
EVANS PRODUCTS,)
Appellant,)
vs.)
OLYMPIC AIR POLLUTION)
CONTROL AUTHORITY,)
Respondent.)

PCHB No. 427

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER being an appeal of Aloha Lumber Corporation
Subsidiary of Evans Products, to a notice of civil penalty of \$100,000
for an alleged visual emission violation; having come on regularly for
hearing before the Pollution Control Hearings Board on the 13th
of November, 1973, at Lacey, Washington; and appellant Aloha Lum
Corp., Subsidiary of Evans Products appearing through Victor H. H
its environmental engineer and respondent Olympic Air Pollution Contr
Authority appearing through its attorney, Fred Gentry; and Board mem
present at the hearing being W. A. Gissberg (presiding) and Mar

McCaffree; and the Board having considered the sworn testimony, exhibits, arguments and records and files herein and having entered on the 19th day of November, 1973, its proposed Findings of Fact, Conclusions of Law and Order; and the Board having served said proposed Findings, Conclusions and Order upon all parties herein by certified mail, return receipt requested and twenty days having elapsed from said service; and

The Board having received no exceptions to said proposed Findings, Conclusions and Order; and the Board being fully advised in the premises; now therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed Findings of Fact, Conclusions of Law and Order, dated the 19th day of November, 1973, and incorporated by this reference herein and attached hereto as Exhibit A, are adopted and hereby entered as the Board's Final Findings of Fact, Conclusions of Law and Order herein.

DONE at Lacey, Washington, this 25th day of January, 1974.

POLLUTION CONTROL HEARINGS BOARD


W. A. GISSBERG, Member


MARY ELLEN McCAFFREE, Member

FINAL FINDINGS

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Appellant,)
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OLYMPIC AIR POLLUTION)
CONTROL AUTHORITY,)
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Respondent.)
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PCRB No. 427

FINDINGS OF FACT, CONCLUSIONS AND ORDER

An informal hearing on the appeal of Aloha Lumber Corporation, Subsidiary of Evans Products, to a notice of civil penalty of \$100.00 for an alleged visual emission violation came on before Board members W. A. Gissberg (presiding) and Mary Ellen McCaffree, on November 13, 1973, in Lacey, Washington.

Appellant appeared by and through Victor H. Prodehl, its environmental engineer; respondent appeared by and through its attorney, Fred Gentry.

Having heard the testimony and considered the exhibits and

EXHIBIT A

1 arguments and being fully advised the Board makes and enters these

2 FINDINGS OF FACT

3 I.

4 Appellant is engaged in the manufacture of wood products at its
5 plant situated north of Pacific Beach in Grays Harbor County,
6 Washington. Prior to the smoke emission episode which led to this
7 appeal, appellant had been granted two variances by respondent and
8 the last variance expired in September of 1972.

9 II.

10 Section 10.01 of respondent's Regulation I applies to waste-wood
11 burners of the type operated by appellant and said regulation makes
12 it unlawful to cause or allow the emission to the outdoor atmosphere
13 for more than fifteen minutes in any consecutive eight hours of a
14 gas stream containing air contaminants which is darker in shade than
15 that designated as No. 2 on the Ringelmann Smoke Chart.

16 Section 10.03(1) makes an exception during startup when building
17 fires in waste-wood burners and allows the Ringelmann limits to be
18 exceeded for not more than sixty minutes in any eight-hour period.

19 Air contaminant as used in Section 10.01 of Regulation I is
20 defined in Section 1.07 as follows:

21 "AIR CONTAMINANT means dust, fumes, mist, smoke, other
22 particulate matter, vapor, gas, odorous substance,
or any combination thereof."

23 III.

24 On June 19, 1973, respondent's inspector observed emissions from
25 appellant's brick-lined waste-wood burner. His recorded observations
26 were of a duration of twenty-six consecutive minutes and were in

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 excess of and darker in shade than that designated as No. 3 on the
2 Ringelmann Smoke Chart. His recorded observations were made
3 continuously from 11:15 a.m. to 11:41 a.m.

4 IV.

5 Appellant's waste-wood burner is being fed waste-wood products
6 of one type or another during the lunch break periods and a fire was
7 burning at all times relevant to this appeal in the waste-wood
8 burner.

9 V.

10 The top of appellant's burner is equipped with one and one-half
11 inch diameter pipe overspray water system, which is around the entire
12 circumference of the burner and from which seven or eight nozzels
13 direct a spray of water up from the burner. The purpose of the
14 water system is to extinguish sparks and is designed for fire
15 protection purposes. Some of this sprayed water will turn to steam
16 or water vapor when the burner is in use.

17 VI.

18 At the time of respondent's observation of emissions, it was
19 determined by sling psychrometer test that the temperature differential
20 between the dry and wet bulb readings was at seven degrees; that when
21 the differential is less than seven degrees it is the respondent's
22 policy not to allege that a violation of its regulations has occurred.
23 The reason for such policy is that any temperature differential greater
24 than seven degrees is not "contaminated" by condensed water; if the
25 temperature differential is seven degrees, than a Ringelmann reading
26 is questionable as to the amount of water vapor in the ambient air.

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VII.

Respondent's policy and position is that water vapor or water mist does not constitute an air contaminant within the meaning of its Regulation I.

From which comes the following

CONCLUSIONS OF LAW

I.

Respondent must prove by a preponderance of the evidence that appellant violated its Regulations. Although a close question has been presented to the Board we find that respondent has failed to meet and carry its burden of proof.

II.

Appellant did not violate Section 10.01 of respondent's Regulation I.

III.

The exemption section, 10.03(1), of respondent's Regulation I does not apply to appellant in this case.

From which the Board makes the following

ORDER

Appellant's appeal is sustained and the civil penalty is stricken.

DONE at Lacey, Washington, this 19th day of November, 1973.

POLLUTION CONTROL HEARINGS BOARD


W. A. GISSBERG, Presiding Officer


MARY ELLEN McCAFFREE, Member

FINDINGS OF FACT,
CONCLUSIONS AND ORDER